

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

WEDNESDAY, THE 31ST JANUARY 2007 / 11TH MAGHA 1928

WP(C).No. 26796 of 2003(M)

PETITIONER:

V.BABU, S.L.R.WORKER, MINOR
IRRIGATION SECTION, KUTHIATHODU,
ALAPPUZHA DISTRICT.

BY ADV. SRI.P.SANTHOSH KUMAR (PANAMPALLI NAGAR)
SRI.LUIZ GODWIN D'COUTH

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY THE
CHIEF SECRETARY, GOVERNMENT SECRETARIAT,
GOVERNMENT OF KERALA, THIRUVANANTHAPURAM.
2. THE CHIEF ENGINEER,
IRRIGATION AND ADMINISTRATION,
THIRUVANANTHAPURAM.
3. THE EXECUTIVE ENGINEER,
MINOR IRRIGATION DIVISION,
CHENGANNUR.
4. THE ASSISTANT EXECUTIVE ENGINEER,
MINOR IRRIGATION SUB DIVISION,
CHERTHALA.
5. THE ASSISTANT ENGINEER, MINOR
IRRIGATION SECTION, KUTHIATHODE.
6. K.V.PETER, HEAD CLERK, O/O ASSISTANT
EXECUTIVE ENGINEER, MINOR IRRIGATION
SUB DIVISION, CHERTHALA.

BY GOVERNMENT PLEADER SMT.K.R.DEEPA.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 31/01/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

W.P.C.NO. 26796 OF 2003

A P P E N D I X

Petitioners' Exhibits :

EXT.P1: TRUE COPY OF THE APPOINTMENT ORDER OF THE PETITIONER BEARING NO.EE1.49461/88 DT. 9.10.91 OF THE 2ND RESPONDENT.

EXT.P2: TRUE COPY OF THE COMMUNICATION OF THE 3RD RESPONDENT TO THE 4TH RESPONDENT BEARING NO.E2-3905/85 DT. 6.2.1992.

EXT.P3: TRUE COPY OF THE G.O.(MS) NO.10/2001/PWD DT. 2.2.2001 OF THE PUBLIC WORKS (B) DEPT.

EXT.P4: TRUE COPY OF THE LETTER OF THE 2ND RESPONDENT TO THE 3RD RESPONDENT NO.C1/22457/94 DT. 16.1.2001.

EXT.P5: TRUE COPY OF THE JUDGMENT IN O.P.NO.12174/2001-Y OF THE HON'BLE HIGH COURT OF KERALA DT. 27.2.2003.

EXT.P6: TRUE COPY OF THE LETTER OF THE PETITIONER TO THE 4TH RESPONDENT DT. 20.3.2003.

EXT.P7: TRUE COPY OF THE LETTER OF THE PETITIONER'S COUNSEL TO THE 2ND, 3RD AND 4TH RESPONDENTS DT. 9.6.2003 WITH ACKNOWLEDGEMENT CARDS.

EXT.P8 TRUE COPY OF THE ORDER OF THE PROCEEDINGS OF THE 4TH RESPONDENT BEARING NO.A3-672/94 DT. 30.6.2003.

EXT.P9 TRUE COPY OF THE ORDER OF THE ASST.EXECUTIVE ENGINEER, PVIP SUB DIVISION NO.1, BHOOHATHANKETTU BEARING NO.A1-151/99 DT. 13.3.2001.

EXT.P10 TRUE COPY OF THE ORDER OF THE ASST.ENGINEER, MINOR IRRIGATION SECTION, PERUMBAVOOR BEARING NO.P 50/96 DT. 5.4.2001.

TGS

KURIAN JOSEPH, J.

W.P.(C) No.26796 of 2003

Dated 31st January, 2007.

J U D G M E N T

The writ petition is filed mainly with the following prayers :-

- (i) "Issue a writ of certiorari or any other appropriate writ, order or direction, quashing Ext.P8 order to the extent it denies pay scale of Rs.750-1,025 and fixation of pay, increments with effect from 9.10.1991 onwards in terms of Ext.P5 judgment;
- (ii) Issue a writ of mandamus, or any other appropriate writ, order or direction directing the respondents to fix the pay of the petitioner in the pay scale of Rs.750-1025 with effect from 9.10.1991 by granting increment, fixation of pay as evidenced in Exts.P9 and P10 as has been given to other employees;
- (iii) Issue a writ of mandamus, or any other appropriate writ, order or direction, directing the respondents to disburse the arrears of salary due to the petitioner from 9.10.1991 to July 2003."

In Ext.P5 judgment dated 27.2.2003 in O.P.No.12174/01, this Court found that the petitioner is eligible to draw salary in the scale of pay of Rs.750-1,025/- shortly after 22.9.1993, the date of revision of pay scale. The stand taken in the impugned Ext.P8 order by the Assistant Executive Engineer is that clarification from the Chief Engineer was not obtained and hence only a tentative fixation. It is seen from Exts.P9 and P10 that persons similarly situated have been given proper fixation with effect from the

very eligible dates, without limiting it to July, 2003 as was done in the case of the petitioner. Accordingly, there will be a direction to the 4th respondent to extend a similar treatment to the petitioner, as extended to the SLR workers covered by Exts.P9 and P10. Ext.P8, to the extent required for the implementation of the above direction, would stand quashed.

The writ petition is disposed of as above.

SD/-

KURIAN JOSEPH, JUDGE.

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KURIAN JOSEPH, J

O.P.No. of 2002

J U D G M E N T

Dated 31st January, 2007.